

L. Richard Mabery, Esq.
L. RICHARD MABERY, P.C.
234 North Montezuma Street
Prescott, Arizona 86301
(928) 778 - 1116

2012 NOV 29 PM 4:12 ✓
BY: R ROMERO

State Bar I.D. No. 005188

Attorney for The Verde Ditch Company

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

GEORGE W. HANCE, et al.,

Plaintiffs,

vs.

**WALES ARNOLD, et ux., et al.,
In the matter of VERDE DITCH
COMPANY,**

Defendants.

) **No. P1300CV4772**

) **Division 1**

) **PETITION REQUESTING**
) **CONSIDERATION AND APPROVAL**
) **OF THE PUBLIC LAW 110-343, TITLE**
) **II GRANT FROM THE USDA FOREST**
) **SERVICE AND FOR AUTHORITY TO**
) **ENTER INTO CONTRACT WITH THE**
) **USDA FOREST SERVICE**

Ex Parte

John Teague, Vernon Hilbers, Albert Dupuy, Jr., Jeff Cochrane and David Myers, Commissioners of the Verde Ditch Company, through undersigned counsel, pursuant to Section 11 of the Rules and Regulations for the Operation of the Verde Ditch, dated October 17, 1989, respectfully request that the Court review and approve a Grant application to the United States Department of Agriculture Forest Service for Infrastructure Improvements for Water Conveyance Efficiency under Public Law 110-343, Title II (hereinafter "the Grant"). The Commissioners further request the Court authorize the Commissioners, on behalf of the Verde Ditch Company,

to execute a Grant contract with the USDA Forest Service to perform the work envisioned pursuant to the terms of the Grant and Contract, and to execute and deliver all documentation necessary to effectuate and complete the terms of the Contract on behalf of the Verde Ditch Company.

BACKGROUND

1. The Rules and Regulations of the Verde Ditch Company do not provide that the Commissioners may seek or accept a grant. In this instance, the Verde Ditch Company has been working with representatives of the Nature Conservancy to address possible improvements to increase the efficiency of the Verde Ditch, reduce turbidity and implement current technological advances that provide additional safety and improved water management practices.

2. The Grant will allow the Verde Ditch Company to undertake three types of projects to improve the water delivery, including:

- a. Installation of telemetry devices at five (5) locations along the Ditch to allow monitoring of the Verde Ditch system and water flows with real-time data which reflect water flows, blockages, unusual water fluctuations and water delivery uses.
- b. Replacement of five (5) existing turnout gates and structures to reduce leakage at existing head gates at various locations along the Ditch; and providing measuring sites to document flows from the various turnouts.
- c. Installation of concrete erosion control structures designed to increase bank protection and reduce sedimentation, thereby reducing turbidity, increasing water efficiency and reducing maintenance costs. The Verde Ditch Company has previously installed concrete buffers in several locations along the Verde Ditch. Based upon the results of those placements, the

Commissioners believe that such devices are a sustainable solution, safer and more cost effective than pipelines or other erosion control procedures previously utilized. The concrete buffers are a continuing attempt to effectively and efficiently provide water from the Verde River to the Verde Ditch shareholders along the approximate 18 miles of Ditch.

3. The Commissioners believe improvements which the Grant funding provides are in the best interests of the Verde Ditch Company and its shareholders as it will improve the infrastructure of the Ditch, efficiency of the water delivery system, provide state of the art technology for flow monitoring and erosion control structures to enhance the normal operation, provide enhanced safety features and significantly reduce maintenance costs for the Verde Ditch water delivery system. Additionally, the improvements will implement methodologies that improve water quality and conservation techniques.

4. The Grant proposal is supported by the following individuals and entities:

- a. Celeste Gordon, Verde District Ranger - Prescott National Forest;
- b. Debbie Maneely, Yav. County Title II RAC - Prescott National Forest;
- c. Linda Wolfe Buchanan, Community Education Coordinator - Yavapai College - Verde Valley Campus;
- d. Jodi Allen, Chair - Verde Natural Resource Conservation District;
- e. Alan Buchanan, Camp Verde Town Council, Sierra Verde H.O.A. Board of Directors, and Arizona Cottages, L.L.C.

5. Attached hereto are copies of the Grant proposal (Project Submission Form), as approved by the USDA Forest Service and a copy of the Grant Contract (Exhibits 1, and 2 respectively).

6. Generally, the work to be performed will require a dry ditch and a coordinated construction schedule. Absent adverse weather or other impediments, the Commissioners believe that a substantial portion of the work can be performed during the normal 2012-2013 winter maintenance schedule. The Verde Ditch proposes to use existing maintenance and reserve funds budgeted for 2012-2013 of the Verde Ditch Company to pay the initial costs to purchase, construct and install the improvements. The Verde Ditch Company anticipates reimbursement of funds as construction progresses so that the Verde Ditch Company's available funds would not all be expended during the construction cycle. By careful scheduling and coordination, payments to contractors and timely collection of reimbursement(s) as construction progresses, the Verde Ditch Commissioners believe that the entire project can be completed without the need for further changes in Ditch assessments or adverse impact on other regularly scheduled water maintenance or budgeted summer operational expenses. If progress is delayed or reimbursements are delayed, then the Commissioners plan to extend completion of the total project to encompass the 2013-2014 winter maintenance period.

7. The Verde Ditch Company will file periodic reports with the Court on the status of the project.

8. In the event that unforeseen factors prevent completion, the Verde Ditch Commissioners have an alternative plan to segment completion of the project so that the adopted budget and other reserves of the Verde Ditch Company are not compromised.

9. Pursuant to the information provided, the Verde Ditch Company will have the ability to seek additional funding for similar type grants in the future if the project is successful.

RESPECTFULLY SUBMITTED this 9th day of November, 2012.

L. RICHARD MABERY, P.C.

By 

L. Richard Mabery, Esq.

Law Offices of L. Richard Mabery, P.C.

234 North Montezuma Street

Prescott, Arizona 86301

Attorney for The Verde Ditch Company

/clr

Law Offices of
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234 North Montezuma Street
Prescott, Arizona 86301-3008
(928) 778-1116

**2008 - 2011 SECURE RURAL SCHOOLS
PUBLIC LAW 110-343
TITLE II PROJECT SUBMISSION FORM
USDA FOREST SERVICE**

Name of Resource Advisory Committee:

Project Number (Assigned by Designated Federal Official):

Funding Fiscal Year(s):

2. Project Name: Infrastructure Improvements for Water Conveyance Efficiency	3a. State: Arizona 3b. County(s): Yavapai
4. Project Submitted By: Verde Ditch Association	5. Date: June 8, 2011
6. Contact Phone Number: (928) 300-4578	7. Contact E-mail: aldupuy@aldinc1.com

8. Project Location: Verde Valley	
a. National Forest(s): Prescott National Forest	b. Forest Service District: Verde Ranger District
c. Location (Township-Range-Section): T 14N R 4E Sections 13, 14, 24, 25; T 14N R 5E Sections 30, 31, 32; T 13N R 4E Sections 1, 6; T 13N R 5E Sections 7, 8, 17, 20, 21, 28, 34	

<p>9. Project Goals and Objectives: Enable improved management of water in the Verde Ditch to benefit fish, wildlife and people by upgrading ditch infrastructure to reduce wasted water and erosion of ditch banks.</p> <p>Objectives:</p> <ol style="list-style-type: none">1) Install a telemetry system to notify ditch managers of flows throughout the ditch system in order to inform management.2) Replace 5 leaking turn out gates along the Verde Ditch to reduce waste.3) Install erosion control structures to reduce bank erosion and sedimentation to the river as well as increasing water velocity within the ditch to reduce conveyance time.

<p>10. Project Description:</p> <p>a. Brief: <i>(in one sentence)</i></p> <p>Upgrade infrastructure of the Verde Ditch to improve flows and water quality in the Verde River.</p> <p>b. Detailed:</p> <p>Through this project, the Verde Ditch Association will undertake 3 activities to improve water delivery through an aging, 18 mile-long ditch. The first will be to install telemetry at 5 locations along the ditch to inform management of the system. The second will be to install 5 modern turn-out gates that will eliminate leaks along the ditch that can total over 4 cubic feet per second (cfs). Finally, the ditch association will install erosion control structures that will reduce sediment load in the Verde River, as well as improve transmission of water through the ditch.</p> <p>Background</p> <p>Within the Verde Valley, The Verde River has seven large diversions to that divert surface water for</p>

irrigation of crop lands, lawns and recreational uses. A portion of this water is consumptively used, meaning it does not return to the river. The majority of the water diverted does return to the river; however, the diversions create stretches of river that go dry or are severely dewatered. Movement of fish and aquatic animals is inhibited by diversion structures and dry stretches and water quality may be impaired due to return flows. Additionally, recreational opportunities are impacted by reduced flows.

The current primitive diversion structures in the river do not allow for ditch managers to adjust the amount of water diverted from the river. These structures are traditional push-up dams that direct the majority of the flow into the ditch system. At various points along the ditch there are spillways back to the river to control the volume of water that is moved through the ditch; some of these returns are within a quarter of a mile of the initial diversion while others are a mile or more away. Most of the ditches run excess water all the way to the terminus of the ditch before spilling it back into the river.

The Verde Ditch is one of the largest diversions within the Verde Valley, serving the west side of the river from just upstream of I-17 all the way down to Beasley Flats. Water diverted into the Verde Ditch could contribute to improved flows in almost half of the Verde Valley for fish, wildlife and people. The Verde Ditch is mostly an unlined dirt ditch with limited sections of pipeline. The diversion structure is a primitive push-up dam constructed of boulders and sediments, which diverts the majority of the river into the ditch. The primary ditch runs to almost a mile from the diversion structure to the headgate where unneeded water is returned back to the river. The ditch takes anywhere from 30 to 70 cfs through the headgate depending on season and river level. The Verde ditch serves about 1,450 acres of irrigated lands and more than 680 users. This represents about 25% of the irrigated acres within the Verde Valley.

Telemetry Systems

The first step in managing water is to understand how much water is available and where it is. Telemetry systems have greatly improved management of ditch systems throughout the west by providing whole system, real-time data to inform efficient delivery of water. Telemetry enables ditch operators to evaluate water levels in their ditch from a remote location. This also enables them to get a good understanding of what is happening throughout the ditch system without having to drive along the entire system which is time and resource consuming. This enables real-time understanding and response to potential problems or waste within the ditch system. It will also enable the ditch association to analyze patterns of use and identify future efficiency projects.

The Verde Ditch Association has invested over \$15,000 in the installation of weir structures at key locations along the ditch to improve the understanding of water distribution throughout the ditch. Weirs are measuring structures installed in the ditch to enable accurate measurement of flows. In cooperation with The Nature Conservancy, two continuous measuring devices have been installed to initiate data collection. However, these structures alone do not provide real-time, whole system feedback that can be achieved with telemetry. With the investments that have already been made, an additional investment of approximately \$3,500 per site (\$17,500 for 5 sites) is needed to purchase high quality, solar operated, cellular telemetry. Installation costs will be provided by in-kind services from The Nature Conservancy staff and Verde Ditch Association members. Telemetry equipment purchased from Agri-Tech Engineering was recently installed on the Diamond S Ditch and any lessons learned from that installation will be applied to this project.

Replacement of Turnout Gates

Turn-out gates along a ditch are critical for proper management of flows. They enable the ditch managers to return water back to the river in case of high water or emergencies such as clogs or leaks along the ditch system. The Verde Ditch currently has 5 old turn-out gates that leak continuously. The leaks vary with water levels in the ditch but can range from almost 1 cfs to 3 cfs. By reducing these leaks, the total

need of diverted water can be reduced which improves flows through the lower Verde Valley – a benefit to fish and wildlife. Additionally, this stretch of the river is very popular for boating and fishing. Typically, flows at White Bridge (a very popular put-in for boaters) can be as low as 20 cfs in summer months making it undesirable to float. A small increase in flow of 4 cfs has significant benefits.

Through this project, the Ditch Association will replace the 5 leaking headgates at a cost of approximately \$45,000. Actual equipment cost is projected at \$6,000 per gate and installation will need to be contracted out to a professional with heavy equipment. The Verde Ditch Association will provide staff time to supervise and monitor the installation to insure neighbors are not affected and work is completed to a high standard. Additionally, the ditch association will install flumes at each of the turnout gates to measure any water returned to the river during normal ditch management.

Erosion Control Structures

Sedimentation has been identified as a concern in the Verde River as it influences the ability of wildlife. Sediment is introduced into the Verde River through floods, overland flows, and other natural and human caused sources. The amount of sediment contributed from ditches overall has not been quantified. The amount of sediment introduced into the Verde River from the Verde Ditch has not been studied; however, qualitative observations suggest that many areas along the ditch contribute sediment. By lining sections of ditch with concrete blocks (known as “heavies”) the width of the ditch can be constricted to a narrower width to reduce erosion and improve water conveyance. Just the sides of the ditch will be lined, not the bottom. This activity provides both water quality and quantity benefits.

The Verde Ditch Association will use funds from this grant to purchase concrete blocks and the association will provide all costs to transport and install the concrete. A minimum of 4 areas of erosion will be addressed through this grant. If time and money allows, additional sites will be addressed.

Summary

The Verde Ditch Association faces a difficult challenge in delivering water to all of their clients. Historically, ditch association fees have been low and most patrons are unwilling to have rates increased to a level high enough to meet the rising costs of management, let alone to address water quantity and quality issues in the river. The ditch association is under no legal obligation to increase flows in the Verde River for fish, wildlife or people. Each of these projects benefits the ditch company by improving its efficiency as well as benefitting the surrounding human and natural communities.

The Verde Ditch Association strives to be a leader in the community by setting an example of serving their users to preserve the agrarian nature of the Verde Valley while improving their water management to benefit people and nature. These projects are designed to enhance the normal and regular maintenance of the ditch system.

11. Types of Lands Involved?

State/Private/Other lands involved? ☒ Yes ☐ No

Land Status:

If Yes, specify: The Verde Ditch traverses the west side of the Verde River for 18 miles from Horseshoe Bend above I-17 to just north of Beasley Flats. The projects will all occur within the ditch right of way which may be on public and private lands. The benefits of this project will reach from the headgate of the Verde Ditch through the Verde Valley and down through the Wild & Scenic reach of the river.

12. How does the proposed project meet purposes of the Legislation? (Check at least 1)☒ Improves maintenance of existing infrastructure.☒ Implements stewardship objectives that enhance forest ecosystems.☒ Restores and improves land health.☒ Restores water quality**13. Project Type**

a. Check all that apply: (check at least 1)

☐ Road Maintenance☐ Trail Maintenance☐ Road Decommission/Obliteration☐ Trail Obliteration☒ Other Infrastructure Maintenance (specify): Upgrades aging irrigation system☐ Soil Productivity Improvement☐ Forest Health Improvement☒ Watershed Restoration & Maintenance☒ Wildlife Habitat Restoration☒ Fish Habitat Restoration☐ Control of Noxious Weeds☐ Reestablish Native Species☐ Fuels Management/Fire Prevention☐ Implement CWPP Project☐ Other Project Type (specify):

b. Primary Purpose (select only 1): Watershed Restoration & Maintenance

14. Identify What the Project Will Accomplish

Miles of road maintained: 0

Miles of road decommissioned/obliterated: 0

Number of structures maintained/improved: 14 (5 turnouts, 5 weirs, and 4 corners)

Acres of soil productivity improved: 0

Miles of stream/river restored/improved: 18 +

Miles of fish habitat restored/improved: 18 +

Acres of native species reestablished: Over 18 miles of river

Acres of hazardous fuel treatment: 0

Miles of trail maintained: 0

Miles of trail obliterated: 0

Acres of forest health improved (including fuels reduction): 0

Acres of rangeland improved: 0

Acres of wildlife habitat restored/improved: 153 (18 miles about with an average of 70 foot width)

Acres of noxious weeds controlled: 0
Timber volume generated (mbf): 0
Jobs generated in full time equivalents (FTE) to nearest tenth. One FTE is 52 forty hour weeks:approximately 0.08 FTE
People reached (for environmental education projects/fire prevention): 0
Direct economic activity benefit: \$67,900
Other:

15. Estimated Project Start Date: September 1, 2011	16. Estimated Project Completion Date: September 1, 2012
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17. List known partnerships or collaborative opportunities.
The Nature Conservancy

18. Identify benefits to communities.

1. Improve water delivery system for 680 people - about 25% of irrigated lands in the Verde Valley.
2. Improve flows and water quality in the Verde River for the benefit of fish and wildlife.
3. Improve flows for recreational use of the Verde River.

19. How does the project benefit federal lands/resources?

1. Improve flows and water quality in the Verde River for the benefit of fish and wildlife
2. Improve flows for recreational use of the Verde Valley which include lands owned by Prescott National Forest

20. What is the Proposed Method(s) of Accomplishment? (check at least 1)	
<input checked="" type="checkbox"/> Contract	<input type="checkbox"/> Federal Workforce
<input type="checkbox"/> County Workforce	<input type="checkbox"/> Volunteers
<input type="checkbox"/> Grant	<input type="checkbox"/> Agreement
<input type="checkbox"/> Americorps	<input type="checkbox"/> YCC/CCC Crews
<input type="checkbox"/> Job Corps	<input type="checkbox"/> Stewardship Contract
<input type="checkbox"/> Merchantable Timber Pilot	<input checked="" type="checkbox"/> Other (specify): Ditch Association Staff/Members

21. Will the Project Generate Merchantable Timber? ☐ Yes ☒ No

22. Anticipated Project Costs
a. Title II Funds Requested:
b. Is this a multi-year funding request? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

23. Identify Source(s) of Other Funding:
Verde Ditch Association general funds

24. Monitoring Plan (provide as attachment)

- a. Provide a plan that describes your process for tracking and explaining the effects of this project on your environmental and community goals outlined above.
- b. Identify who will conduct the monitoring:
- c. Identify total funding needed to carry out specified monitoring tasks (Worksheet 1, Item k):

25. Identify remedies for failure to comply with the terms of the agreement.

If project cannot be completed under the terms of this agreement:

- ☒ Unused funds will be returned to the RAC account.
- ☐ Other, please explain:

Project Recommended By:

/s/ (INSERT Signature)
Chairperson

Resource Advisory Committee

Project Approved By:

/s/ (INSERT Signature)
Forest Supervisor

National Forest

Project Cost Analysis Worksheet

Worksheet 1

Please submit this worksheet with your proposal

Item	Column A Fed. Agency Appropriated Contribution	Column B Requested Title II Contribution	Column C Other Contributions	Column D Total Available Funds
a. Field Work & Site Surveys				
b. NEPA/CEQA				
c. ESA Consultation				
d. Permit Acquisition				
e. Project Design & Engineering				
f. Contract/Grant Preparation				
g. Contract/Grant Administration				
h. Contract/Grant Cost		17,500	3,040	20,540
i. Salaries			1,120	1,120
j. Materials & Supplies		47,900	2,000	49,900
k. Monitoring				
l. Other		5,886		5,886
1.				
2, Partner Indirect Cost				
m. Project Sub-Total		71,286	6,160	77,446
n. FS Indirect Costs		3,564		3,564
Total Cost Estimate		74,850	6,160	81,010

NOTES:

- a. Pre-NEPA Costs
- g. Includes Contracting/Grant Officer Representative (COR) costs. Excludes Contracting/Grant Officer costs.
- i. Cost of implementing project
- l. Examples include overhead charges from other partners, vehicles, equipment rentals, travel, etc.
- n. Forest Service indirect costs, including contracting/grant officer costs if needed.

Attachment A. Monitoring Plan

Provide a plan that describes your process for tracking and explaining the effects of this project on your environmental and community goals outlined above.

- a. Identify who will conduct the monitoring:
- c. Identify total funding needed to carry out specified monitoring tasks (Worksheet 1, Item k):

The three objectives of this project are:

- 1) Install a telemetry system to notify ditch managers of flows throughout the ditch system in order to inform management.
- 2) Replace 5 leaking turn out gates along the Verde Ditch to reduce waste.
- 3) Install erosion control structures to reduce bank erosion and sedimentation to the river as well as increasing water velocity within the ditch to reduce conveyance time.

The Verde Ditch Association will be responsible for insuring that each of these objectives is met. As there is not good baseline data, incremental changes to flow are difficult to measure. Success for each activity will be documented as follows.

Objective: Install a telemetry system to notify ditch managers of flows throughout the ditch system in order to inform management.

The Verde Ditch will insure that the telemetry system is installed and operating effectively. A summary of the data collected will be provided with the final report

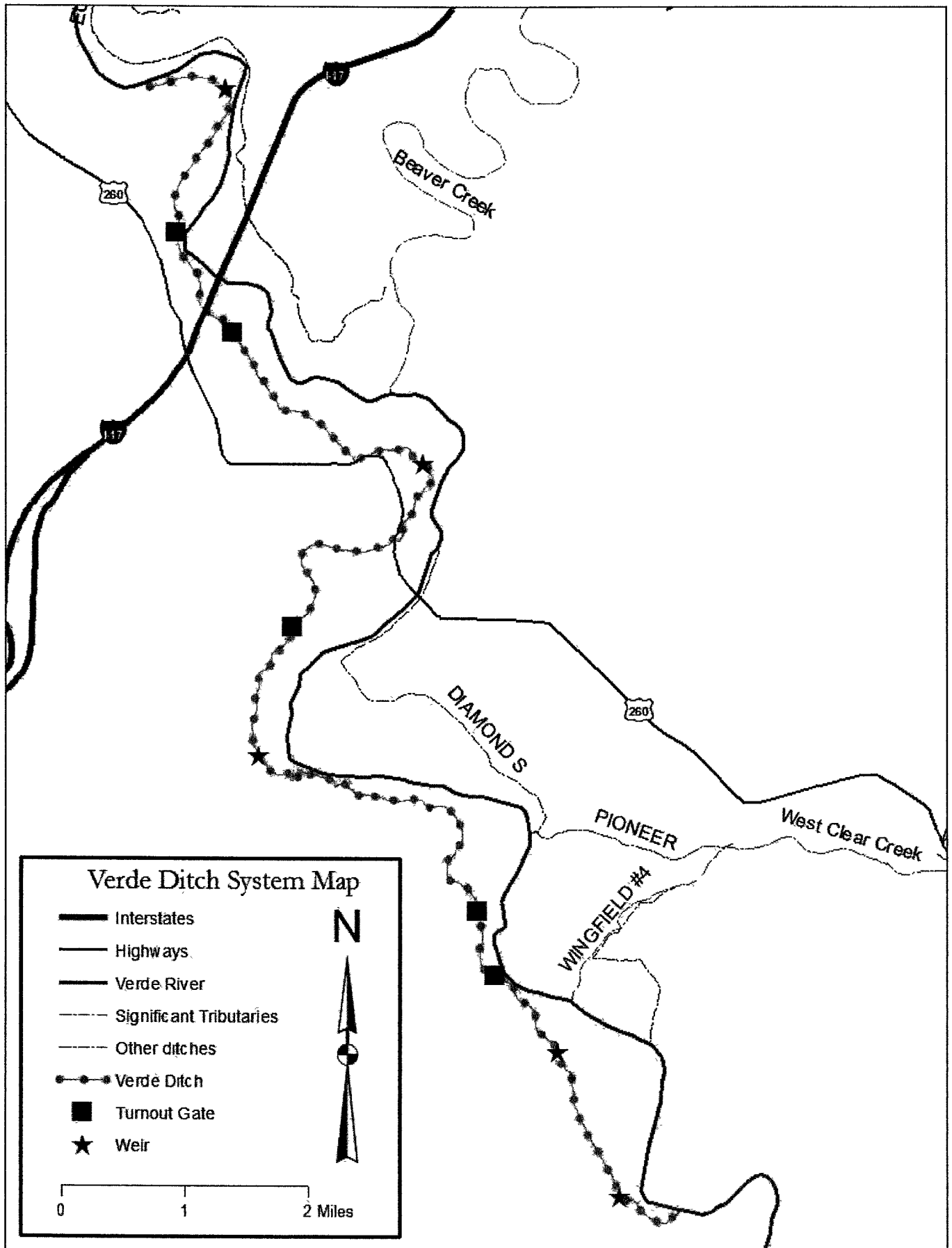
Objective: Replace 5 leaking turn out gates along the Verde Ditch to reduce waste.

Turnout gates will be installed during winter maintenance period. Installation will be inspected by ditch association staff to verify the quality of work. During the first month of operation, ditch association staff will verify that the turnout gates are not leaking. If any leaking is detected, efforts will be made to repair the leak. Staff will continue to verify that leaks are not occurring throughout the irrigation season. Photos of each site will be submitted with the final report.

Objective: Install erosion control structures to reduce bank erosion and sedimentation to the river as well as increasing water velocity within the ditch to reduce conveyance time.

Structures will be completed during winter maintenance period when the ditch is dry. Structures will be inspected once the ditch begins delivering water in the spring to assess their functionality. Photos will be provided with final report to illustrate the improvements.

Attachment B: Verde Ditch Association System Map



Attachment C: Letters of Support and Approval

1. Email approval from Celeste Gordon, District Ranger for the Verde Ranger District
2. Linda Wolfe Buchanan (Yavapai College Community Education Coordinator and local citizen)
3. The Nature Conservancy
4. Verde Natural Resource Conservation District
5. Alan Buchanan, (Camp Verde town council member)

Kimberly Schonek

From: Celeste A Gordon [cgordon@fs.fed.us]
Sent: Wednesday, June 08, 2011 3:36 PM
To: Kimberly Schonek
Cc: Debbie Maneely, Linda L Jackson
Subject: Re: Verde Ditch Association RAC Grant
Attachments: pic08425.gif; pic31907.gif

Kim, I support the TNC Title II Secure Rural Schools Grant proposal to work with the Verde Ditch Co to improve the watershed for the Verde River.

Pls put this email with your Application. Thks _____

Celeste Gordon
Verde District Ranger
Prescott National Forest
(928) 567-1130
email: cgordon@fs.fed.us

"Kimberly
Schonek"
<kschonek@tnc.org
>

06/08/2011 11:27
AM

"Celeste A Gordon"
<cgordon@fs.fed.us>

To

cc

Subject

Verde Ditch Association RAC Grant

Hi Celeste,

The Verde Ditch Association is planning to submit a RAC grant this Friday. Could you please provide a letter of support for this project? The project outline is below, this is an excellent opportunity to start modernizing the aging ditch systems in the Verde Valley which has significant benefits to fish and wildlife. Additionally this will improve flow through the lower Verde Valley which is popular for boating and includes two popular USFS kayak put-ins, the White Bridge and West Clear Creek sites.

Kim

Through this project the Verde Ditch Association will undertake 3 types of projects to improve the water delivery through an aging, 18 mile long ditch. The first will be to install telemetry at 5 locations along the ditch to inform management of the system. The second will be to install 5 modern turn-out gates that will eliminate leaks along the ditch

Linda Wolfe Buchanan
Community Education Coordinator
Yavapai College – Verde Valley Campus
601 Black Hills Drive
Clarkdale, Arizona 86324

June 9, 2011

Re: Verde Ditch Improvements, RAC Funding, 2011

To whom it may concern:

Please accept this letter of support as my affirmation of the value and importance of the Verde Ditch improvements under your consideration for funding.

As community education coordinator at Yavapai College – Verde Valley Campus, I have realized multiple opportunities to organize and/or facilitate local and regional forums on the Verde River, and related water resource management issues.

Additionally, as a shareholder on the Verde Ditch, the OK Ditch, and the Pioneer Ditch, I'm keenly aware of the importance of becoming a more educated, informed, and conservative water user. The Verde Ditch funding application under your consideration meets these multiple objectives.

The opportunity to replace Verde Ditch turn-out gates, improve erosion control techniques, and augment water usage monitoring with modern telemetry, are all value-added propositions.

Additionally, the Verde Ditch is demonstrating admirable leadership and foresight in its willingness to commit private resources for the public good.

I believe the Verde Ditch improvement project experiences and data, as tested and documented under commissioner, Al Dupuy, will enhance the efforts of other irrigation companies throughout the Verde River watershed.

Please take this opportunity to validate the conservation efforts of the Verde Ditch by making a grant award to further their initiative.

Sincerely,

Linda Wolfe Buchanan
Linda Wolfe Buchanan

June 7, 2011

Yavapai County Title II RAC
Attn: Debbie Maneely
Prescott National Forest
344 S Cortez St
Prescott AZ 86303

Re: Letter of Endorsement

Dear Yavapai County Title II RAC Review Panel,

It is my pleasure to write a letter in support of the proposal "Verde Ditch Association Infrastructure Improvements" being submitted to the Yavapai County RAC Program by Verde Ditch Association. The Conservancy is excited to collaborate with the Verde Ditch to improve their water delivery system to enable more efficient conveyance and deliver of water. This effort will increase river flows to a low flow reach of the river which improves conditions for native fish and wildlife. It will also improve the quality of water that returns to the river by reducing erosion within the ditch system which has benefits the full length of the Verde River down to the reservoirs.

The Nature Conservancy is working to improving flows in the Verde River through the Verde Valley. Ditch associations control the surface water diversions in this reach of the river and aiding them in upgrading and modernizing their irrigation systems has benefits for the whole community. The Verde River and the plants and animals that it supports are an asset to the community. Improving river conditions benefits US Forest Service lands within the Verde Valley as well as through the Wild & Scenic reach of the river.

This proposal is an ideal fit for this project for the RAC Program as it will address watershed restoration, preservation and maintenance, restoration, as well as maintenance and improvement of wildlife and fish habitat along the Verde River.

Sincerely,



Dan Campbell
Verde Program Director



Verde Natural Resource Conservation District

June 9, 2011

Re: RAC Grant Proposal for the Verde Ditch Association

Subject: Letter of Support

As a state unit of government comprised of locally-elected volunteer Supervisors, the Verde Natural Resource Conservation District has been a champion of local soil and water conservation efforts since 1941. Therefore, the Verde NRCD is in full support of the Verde Ditch Association's grant proposal to improve its water delivery system. Over many years, the Verde NRCD has supported and partnered with local ditch companies on various land and water management efforts.

The vision of the Verde NRCD is to maintain and enhance the quality of life in the district through science and tradition-based management of natural resources. In addition to ensuring equity among shared interests, respecting diverse cultural values and preserving environmental health of our land, the Verde NRCD is dedicated to promoting appropriate economic growth and financial security of present and future generations. The Board of Supervisors believes that implementation of the Verde Ditch Association's proposals will strengthen and propel that vision forward.

Sincerely,

for Jodi Allen, Chair
Verde NRCD

For more information about the Verde NRCD and its programs, please visit our website at www.verde.org and see the enclosed brochure. Please let us know how we can be of service to you. We hope to see you soon.

The Verde NRCD does not discriminate against any person on the basis of race, religion, color, gender, sexual orientation, national origin, ancestry, age, marital status, veteran status or disability. This policy covers all programs, services and procedures of the NRCD.

Verde Natural Resource Conservation District PO Box 280 Camp Verde, AZ 86322
(928) 554-0463 verdenrkd@yahoo.com <http://www.verde.org>

Alan Buchanan
3470 S Hacienda Lane
Camp Verde, Arizona 86322

June 9, 2011

Re: Verde Ditch Improvements, RAC Funding, 2011

To Yavapai RAC Funding Reviewers:

I am writing as a community member in support of the Verde Ditch application for RAC funding currently under your consideration.

I am a member of Camp Verde Town Council, Sierra Verde Homeowners Association Board of Directors, and Arizona Cottages LLC.

In an attempt to better understand and effect efficient and informed water resource management, I've participated in the Verde Valley Regional Forum (April 2011) and the Verde River Community Conversation (May 2011).

Additionally, our homeowners association is presently undertaking an improvement project on the Pioneer Ditch. Contrary to historic relationships based in competition for water, I recognize the growing importance of collaborative and joint projects to ensure better management practices.

I believe the current improvement projects initiated by Verde Ditch (including but not limited to) turn-out gates, erosion control techniques, and water usage monitoring with modern telemetry, will be of benefit to the greater Verde River watershed.

It is my understanding that Verde Ditch has invested thousands of private dollars in this demonstrable and model improvement project. This project potentially portends leadership for other irrigation companies, organizations, and individual water users.

Please give this grant application serious consideration. By funding the Verde Ditch initiative, you are investing in regional responsibility and proactive solutions in water resource management.

Sincerely,

Alan Buchanan
Alan Buchanan

C: Al Dupuy, Kimberly Schonek



United States
Department of
Agriculture

Forest
Service

Prescott National Forest

344 South Cortez
Prescott, AZ 86303
Phone: (928) 443-8000
Fax: (928) 443-8008
TTY: (928) 443-8001

File Code: 1580-2

Date: November 19, 2012

Al Dupuy
Verde Ditch Company
432 South 1st Street
Camp Verde, AZ 86322

GRANTS & AGREEMENTS TRANSMITTAL LETTER

☒ **Agreement No: 13-DG-11030905-004 – RAC Funded – Infrastructure Improvements for Water Conveyance Efficiency.**

☐ Enclosed are ____ originals of the referenced document, which have been signed on behalf of the USDA Forest Service.

☐ We have retained a fully executed original for our files.

☒ **Please review and, if no changes are needed, have both originals signed by the authorized individual. Please return all originals to the above address to the attention of Nancy Lewis, Grants Management Specialist. A fully executed original will be returned for your files.**

☐ We are submitting a fully executed original for your files.

If you have any questions, please give me a call at 928-443-8240.

Sincerely,

NANCY G. LEWIS
Grants Management Specialist

Enclosures (2)

cc: Celeste Gordon w/enclosure



**FEDERAL FINANCIAL ASSISTANCE
AWARD OF DOMESTIC GRANT 13-DG-11030905-004
Between
VERDE DITCH COMPANY
And The
USDA, FOREST SERVICE
PRESCOTT NATIONAL FOREST**

Project Title: RAC Funded - Infrastructure Improvements for Water Conveyance Efficiency

Upon execution of this document, an award to the Verde Ditch Company, hereinafter referred to as "Verde Ditch," in the amount of \$71,286.00, is made under the authority of Title II of the Secure Rural Schools and Community Self-Determination Act of 2000, Public Law 106-393, 16 U.S.C. 500 as reauthorized and amended by the Emergency Economic Stabilization Act of 2008, Energy Improvement and Extension Act of 2008, and Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Section 601 (a) in division C of Public Law 110-343. The Verde Ditch Company accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated July 31, 2012, and the attached U.S. Forest Service provisions, 'U.S. Forest Service Award Provisions,' are incorporated into this letter and made a part of this award.

This is an award of Federal financial assistance and is subject to OMB Circular A-110, Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations., as implemented by regulations USDA regulations 7 CFR 3019 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations", 2 CFR 230, Cost Principles for Non-Profit Organizations,, and OMB Circular A-133 as implemented by USDA regulation 7 CFR 3052. All Federal and Recipient matching/cost-share contributions are subject to all relevant OMB Circulars and Code of Federal Regulations.

The OMB Circulars are available on the internet at http://www.whitehouse.gov/omb/grants_default/. Electronic copies of the CFRs can be obtained at the following internet site: <http://www.gpoaccess.gov/cfr/index.html>. If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at 928-443-8240.

Effective October 1, 2010, recipients are required to report information on subaward and executive total compensation, as required by the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252, hereinafter referred to as "the Transparency Act." See the award terms in Attachment B: 2 CFR Part 170.

The following administrative provisions apply to this award:



- A. LEGAL AUTHORITY. The Verde Ditch shall have the legal authority to enter into this award, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this award.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Al Dupuy Verde Ditch Company P. O. Box 2345 Camp Verde, AZ 86322-2345 Telephone: 928-300-4578 FAX: Email: verdeditch@yahoo.com	Same as Program Contact

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Celeste Gordon, Verde District Ranger Prescott National Forest Verde Ranger District P. O. Box 670 Camp Verde, AZ 86322-0670 Telephone: 928-567-1130 FAX: 928-567-1179 Email: cgordon@fs.fed.us	Nancy Lewis Grant Management Specialist Prescott National Forest 2971 Willow Creek Road, Bldg #4 Prescott, AZ 86301-4142 Telephone: 928-443-8240 FAX: 928-443-8208 Email: nlewis@fs.fed.us

- C. AVAILABILITY OF FUNDS. U.S. Forest Service funds in the amount of \$ 71,286.00 are currently available for performance of this award through September 30, 2013. The U.S. Forest Service's obligation for performance of this award beyond this date is contingent upon the availability of appropriated funds from which payment can be made. No legal liability on the part of the U.S. Forest Service for any payment may arise for performance under this award beyond September 30, 2013, until funds are made available to the U.S. Forest Service for performance and until Verde Ditch receive(s) notice of availability to be confirmed in a written modification by the U.S. Forest Service.
- D. REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. See provision __J__ in the attachment, 'U.S. Forest Service Award Provisions.'

- E. PROGRAMMATIC CHANGES. The Verde Ditch shall obtain prior approval for any change to the scope of objectives of the approved project, key personnel, or transfer of substantive programmatic work to another party.
- F. MODIFICATIONS. Modifications within the scope of this award shall be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 60 days prior to implementation of the requested change. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.
- G. COMMENCEMENT/EXPIRATION DATE. This award is executed as of the date of the last signature and is effective through September 30, 2013, at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.
- H. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this award. In witness whereof, the parties hereto have executed this award as of the last date written below.

DAVID L. MACKEY, Judge
Yavapai County Superior Court

Date

BETTY A. MATHEWS, Forest Supervisor
U.S. Forest Service, Prescott National Forest

Date

The authority and format of this award have been reviewed and approved for signature.

NANCY G. LEWIS
U.S. Forest Service Grants Management Specialist

Date

ATTACHMENT A: U.S. FOREST SERVICE AWARD PROVISIONS

- A. COLLABORATIVE ARRANGEMENTS. Where permitted by terms of the award, Verde Ditch may enter into collaborative arrangements with other organizations to jointly carry out activities with grant funds.
- B. FOREST SERVICE LIABILITY TO THE RECIPIENT. The United States shall not be liable to the recipient for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work under this award, including damage to any property owned by the recipient or any third party.
- C. NOTICES. Any notice given by the U.S. Forest Service or Verde Ditch will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the grant.

To Verde Ditch, at Verde Ditch's address shown in the grant or such other address designated within the grant.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. SUBRECIPIENT NOTIFICATION The Verde Ditch shall notify subrecipients under this award that they are subject to the terms and conditions herein, except with respect to the recipient's OMB Uniform Administrative Requirements and Cost Principles. In the case of subrecipient Uniform Administrative Requirements and Cost Principles, subrecipients must be notified that they are subject to the following:

SUBRECIPIENT TYPE	APPLICABLE ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES	
	Administrative Requirements	Cost Principles
Non-profits	2 CFR 215	2 CFR 230
Local and Tribal governments (when recipient is a State)	State & Federal laws, regulations	2 CFR 225
Local and Tribal governments (when recipient is a non-State)	A-102	2 CFR 225
State agencies	State & Federal laws, regulations	2 CFR 225
Universities	2 CFR 215	2 CFR 220
Profit-makers	2 CFR 215	48 CFR 31.2

E. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.

F. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.

a. You as the Recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

- (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- (2) Procure a commercial sex act during the period of time that the award is in effect; or
- (3) Use forced labor in the performance of the award or subawards under the award.

b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

- (1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
- (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR 417.

2. Provision applicable to a Recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

- b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

- (1) Associated with performance under this award; or
- (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR 417.

3. Provisions applicable to any recipient.

- a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
- b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
- c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

4. Definitions. For purposes of this award term:

- a. “Employee” means either:
 - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- b. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

c. "Private entity":

(1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(2) Includes:

i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

ii. A for-profit organization.

d. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

G. DRUG-FREE WORKPLACE.

1. The Verde Ditch agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must

a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

b. Specify the actions Verde Ditch will take against employees for violating that prohibition; and

c. Let each employee know that, as a condition of employment under any instrument, he or she

(1) Must abide by the terms of the statement, and

(2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

2. The Verde Ditch agree(s) that it will establish an ongoing drug-free awareness program to inform employees about

a. The dangers of drug abuse in the workplace;

b. Your policy of maintaining a drug-free workplace;

- c. Any available drug counseling, rehabilitation and employee assistance programs; and
 - d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.
- 3. Without the U.S. Forest Service's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this award, or the completion date of this award, whichever occurs first.
- 4. The Verde Ditch agree(s) to immediately notify the U.S. Forest Service if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the award number of each award on which the employee worked. The notification must be sent to the U.S. Forest Service within ten calendar days after Verde Ditch learn(s) of the conviction.
- 5. Within 30 calendar days of learning about an employee's conviction, Verde Ditch must either
 - a. Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
 - b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.
- H. ELIGIBLE WORKERS. The Verde Ditch shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). The Verde Ditch shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.
- I. FINANCIAL STATUS REPORTING. A Federal Financial Report, form SF-425 (and Federal Financial Report Attachment SF-425A, if required for reporting multiple grants), must be submitted annually. The final SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later than 90 days from the expiration date of the award. These forms may be found at www.whitehouse.gov/omb/grants_forms.
- J. REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. Reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment shall be submitted on Standard Form (SF) 270, and shall be submitted no

more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the U.S. Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and U.S. Forest Service regulations. Advance payments shall not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If Verde Ditch receive(s) an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully expended before the U.S. Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award shall be returned to the U.S. Forest Service.

The invoice must be sent by one of three methods (email is preferred):

EMAIL: asc_ga@fs.fed.us

FAX: 877-687-4894

POSTAL: Albuquerque Service Center
Payments – Grants & Agreements
101B Sun Ave NE
Albuquerque, NM 87109

Send a copy to: Celeste Gordon
Verde Ranger District
P. O. Box 670
Camp Verde, AZ 86322
(FAX: 928-567-1179)

- K. AWARD CLOSEOUT. The Verde Ditch shall close out the grant within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to Verde Ditch shall be immediately refunded to the U.S. Forest Service, including any interest earned in accordance with 7 CFR 3016.21, 7 CFR 3019.22, or other relevant law or regulation.

Within a maximum of 90 days following the date of expiration or termination of this grant, all financial performance and related reports required by the terms of the award shall be submitted to the U.S. Forest Service by Verde Ditch.

If this award is closed out without audit, the U.S. Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- L. PROGRAM PERFORMANCE REPORTS. The Verde Ditch shall monitor the performance of the grant activities to ensure that performance goals are being achieved.

Performance reports shall contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

The Verde Ditch shall submit annual performance reports. These reports are due 90 days after the reporting period. The final performance report shall be submitted either with Verde Ditch's final payment request, or separately, but not later than 90 days from the expiration date of the grant.

- M. NOTIFICATION. The Verde Ditch shall immediately notify the U.S. Forest Service of developments that have a significant impact on the activities supported under this grant. Also, notification shall be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.
- N. CHANGES IN KEY POSITIONS AND PERSONNEL. Any revision to key positions and personnel identified in the application for this award require prior, written approval from the U.S. Forest Service. All technical positions are considered Key Personnel by the U.S. Forest Service. Failure on the part of Verde Ditch to obtain prior, written approval when required may result in the disallowance of costs.
- O. FREEDOM OF INFORMATION ACT (FOIA). Public access to grant or agreement records shall not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to "Freedom of Information" regulations (5 U.S.C. 552).
- P. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All recipients and subrecipients are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

- Q. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. The Verde Ditch is/are encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

"The Prescott National Forest of the U.S. Forest Service, Department of Agriculture, and Yavapai County Rural Advisory Committee (RAC), under the Secure Rural Schools and Community Self-determination Act of 2000....."

The Verde Ditch may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. The Verde Ditch is/are requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to the U.S. Forest Service's Office of Communications as far in advance of release as possible.

- R. TERMINATION BY MUTUAL AGREEMENT. This award may be terminated, in whole or part, as follows:

- When the U.S. Forest Service and Verde Ditch agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
- By 30 days written notification by Verde Ditch to the U.S. Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.

If, in the case of a partial termination, the U.S. Forest Service determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the U.S. Forest Service may terminate the award in its entirety.

Upon termination of an award, Verde Ditch shall not incur any new obligations for the terminated portion of the award after the effective date, and shall cancel as many outstanding obligations as possible. The U.S. Forest Service shall allow full credit to Verde Ditch for the United States Federal share of the non-cancelable obligations properly incurred by Verde Ditch up to the effective date of the termination. Excess funds shall be refunded within 60 days after the effective date of termination.

- S. DISPUTES.

1. Any dispute under this award shall be decided by the Signatory Official. The Signatory Official shall furnish Verde Ditch a written copy of the decision.
2. Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, Verde Ditch appeal(s) the decision to the U.S. Forest Service's Director, Acquisition Management (AQM). Any appeal made under this provision shall be in writing and addressed to the Director, AQM,

USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.

3. In order to facilitate review on the record by the Director, AQM, Verde Ditch shall be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.

T. DEBARMENT AND SUSPENSION. The Verde Ditch shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Verde Ditch or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

U. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS.

1. *Requirement for Central Contractor Registration (CCR)*

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

2. *Requirement for Data Universal Numbering System (DUNS) Numbers*

If you are authorized to make subawards under this award, you:

- a. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
- b. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

3. *Definitions*

For purposes of this award term:

- a. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
- b. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
- c. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- i. A Governmental organization, which is a State, local government, or Indian Tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization; and
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. *Subaward*:

- a. This term means a legal agreement to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, *see* Sec. II.210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. *Subrecipient* means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

[END OF PROVISION]

ATTACHMENT B: 2 CFR PART 170

Appendix A to Part 170—Award Term

I. Reporting Subawards and Executive Compensation.

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111–5) for a subaward to an entity (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
 - i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. *Reporting Total Compensation of Recipient Executives.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration profile at <http://www.ccr.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

- i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
- ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions* If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- 1. Subawards, and
- 2. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. *Executive* means officers, managing partners, or any other employees in management positions.

3. *Subaward*:

- i. This term means a legal agreement to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 11.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. *Subrecipient* means an entity that:
- i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
- i. *Salary and bonus.*
 - ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
 - v. *Above-market earnings on deferred compensation which is not tax-qualified.* vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

END OF ATTACHMENT B: 2 CFR PART 170